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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,569	09/08/2005	Gil Sam Park	026032-4821	8358
26371	7590	11/23/2007		
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			EXAMINER MCPARTLIN, SARAH BURNHAM	
			ART UNIT	PAPER NUMBER
			3636	
			MAIL DATE	DELIVERY MODE
			11/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,569

Applicant(s)

PARK, GIL SAM

Examiner

Sarah B. McPartlin

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/23/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information referred to in the information disclosure statements filed on 3/23/07 has been considered as to the merits.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5-26 are rejected under 35 U.S.C. 103(a) as being anticipated by Nishino (4,738,427) in view of Niezoldt (5,791,738). Nishino discloses a seat for a vehicle (Figure 3): comprising: a pair of support frames (8)(8) supported by the vehicle body; a seat back (1)(A) including a seat back frame (1); a reclining device (6) configured to allow the seat back (1)(A) to tilt and support the seat back (1)(A) in a tilting position, the reclining device (6) being supported by an installed on the support frames (8)(8); and a lifter device (3) configured to allow a seat cushion portion (2)(A) to tip up and support the seat cushion portion (2)(A) in a tipping position, the lifter device (3) being supported by and installed on the support frames (8)(8) wherein the reclining device (6) comprises a device mechanism and covers lower ends of the seat back frame (1) as best depicted in Figure 3. The lower end of the seat back frame (1) is supported

The lifter device (3) comprises a first sector gear (20) and a second gear (19) to allow the seat cushion portion (2)(A) to tip up and support the seat cushion portion (2)(A) in a tipping position. The lifter (3) further comprises a first projection (17) and a second projection (22) on an inner portion (unlabeled) of the first and second support members (8). The gear (second gear) (19) is pivotally supported on the first projection (17) and the sector gear (first gear) (20) is pivotally supported in the second projection (22).

As disclosed above, Nishino reveals all claimed elements with the exception of a seat back frame made from a pipe/tube and sub-frames welded to the seat back frame and also made from pipes/tubes, wherein each lower end of the frame and sub-frames is spaced in the fore-aft direction and the reclining device falls within the space.

Niezoldt (5,791,738) discloses a seat back (1) including a first tubular/pipe frame (4) and a second tubular/pipe frame or sub-frame (3) having lower ends that are spaced apart in the fore-aft direction and a hook element (12) for receiving a reclining device, in the form of a swivel pin, which falls within the space between the lower ends of the first and second tubular frames. An upper end of the sub-frame (3) is welded to an upper portion of the seatback frame (4). The first (4) and second (3) frames are welded together at top portions (7)(6) as described in column 2, lines 35-40. A third frame (13) is welded at its ends to the first and second frames at a lower end thereof by way of hook element (12) which extends rearward of the lower ends of the first and second frame in a fore-aft direction.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to replace the seat back (1)(A) disclosed by Nishino with the seat back taught by Niezoldt. Such a modification would create "a considerable increase in the seat back's stability under load both towards the front and the back" (column 3, lines 2-3).

Response to Amendment/Arguments

4. The amendment filed on October 3, 2007 has been considered in its entirety.

Applicant argues that Nishino, alone or in any proper combination with Neizoldt, fails to disclose a seat for a vehicle comprising a seat back including a seat back frame made from a pipe and sub-frames made from pipes, upper ends of the sub-frames being respectively coupled to the seat back frame, lower ends of the seat back frame and lower ends of the sub-frames being supported by the supports frames. Nishino discloses a seat back frame that is supported at its lower end by support frames (8). Niezoldt discloses seat back (1) including a first seat back frame member (4) with sub-frames (3) spaced in a fore aft direction from the first seat back frame member (4). The lower ends of the sub-frames (3) are spaced from the first seat back frame member (4) and the upper ends of the sub-frames (3) are coupled to the first seat back frame member (4). Furthermore, cross bar (13) constitutes a third seat back frame member which is connected to the first member (4) and the sub-frames (3) by way of hook elements (12) at ends thereof. The Examiner contends that the sub-frames disclosed by Neizoldt do have upper ends. These upper ends correspond to the point where sub-

frames (3) contact frame (4). The term "end" does not necessarily imply a "free end", it simply implies the end of a section. The point at which sub-frame (3) meets first frame member (4) constitutes an end of a section and therefore meets the limitation of an "upper end." Replacing the seat back frame disclosed by Nishino with the seat back disclosed by Neizoldt would result in the structure as claimed.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/
Primary Examiner
Art Unit 3636

SBM
November 20, 2007